

SCOTT A. HAGEN (4840)
KATHERINE E. PRIEST (14758)
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
Post Office Box 45385
Salt Lake City, UT 84145-0385
Telephone: (801) 532-1500
Facsimile: (801) 532-7543
shagen@rqn.com

*Attorneys for Defendants Blue Cross and Blue
Shield of Massachusetts, Inc. and Blue Cross and
Blue Shield of Massachusetts HMO Blue, Inc.*

Case: 2:21-mc-00502
Assigned To : Shelby, Robert J.
Assign. Date : 8/23/2021
Description: S. et al v. Blue Cross and
Blue Shield of Massachusetts et al

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

BRENT S., ANGIE S., J.B., R.B., A.F., C.S.
and H.S. individually and as representatives
of the class of similarly situated individuals,

Plaintiffs,

v.

BLUE CROSS AND BLUE SHIELD OF
MASSACHUSETTS, INC., and BLUE
CROSS AND BLUE SHIELD OF
MASSACHUSETTS HMO BLUE, INC.

Defendants.

(Currently pending in the United States
District Court for the District of
Massachusetts, Case No. 1:17-cv-11569-
ADB)

Utah Misc. Case No. _____

**STIPULATED MOTION TO
TRANSFER MOTION TO COMPEL
COMPLIANCE WITH SUBPOENA
TO ISSUING COURT PURSUANT TO
RULE 45(f)**

Pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1404(a), Defendants Blue Cross and Blue Shield of Massachusetts, Inc. and Blue Cross and Blue Shield of Massachusetts HMO Blue, Inc (together, “BCBSMA”) and the party subject to subpoena, Denials Management Inc. (“DMI”) (collectively, the “Parties”), by and through their respective counsel of record, hereby stipulate and jointly move that this miscellaneous action and the motion to compel compliance with a subpoena duces tecum should be transferred to the

issuing court, specifically to the District Court of Massachusetts, Judge Allison D. Burroughs presiding, in the above captioned matter under the Massachusetts Case No. 1:17-cv-11569-ADB. A copy of the subpoena at issue is attached as Exhibit 1.

In support of this stipulated motion, the Parties state as follows:

FRCP 45(f) provides: “When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents. . . .”

Here, DMI is located in Salt Lake City, Utah, so compliance is required in this Court. DMI consents, by this stipulation, to transferring BCBSMA’s motion to compel compliance to the issuing court presiding over the underlying litigation. Furthermore, but also a transfer will promote judicial economy and ensure consistency in rulings because, among other reasons:

1. Judge Burroughs is already familiar with the facts and issues in the underlying case, which has been heavily litigated. This case differs from cases where the court in the underlying case may not have a great deal of familiarity with the issues in the case because a subpoena-related motion is the first or one of a few motions in dispute.
2. The timing weighs in favor of transfer. BCBSMA requests the discovery in support of its opposition to a pending motion for class certification. Judge Burroughs, because of her familiarity with the underlying case, will likely be able to rule on this motion more quickly than this Court likely could given it would need to get up to speed, which may delay discovery.
3. Judge Burroughs has previously presided over discovery disputes involving related issues. Further, uniformity of discovery rulings is critical to achieving fairness to the parties and non-parties.
4. Transferring the motion will avoid potentially disrupting the issuing court’s management of the underlying litigation both procedurally and substantively.

Accordingly, the Parties respectfully request that, pursuant to Rule 45(f), this Court transfer BCBSMA’s motion to compel compliance with the subpoena to the District Court of Massachusetts, Judge Allison D. Burroughs presiding, in the above captioned matter under Case No. 1:17-cv-11569-ADB.

DATED this 23rd day of August, 2021.

RAY QUINNEY & NEBEKER P.C.

/s/ Scott A. Hagen

Scott A. Hagen

*Attorneys for Defendants Blue Cross and Blue
Shield of Massachusetts, Inc. and Blue Cross and
Blue Shield of Massachusetts HMO Blue, Inc.*

DATED this 23rd day of August, 2021.

KING & BURKE, P.C.

/s/ Thomas R. King

Thomas R. King (signed with permission)

Attorney for Denials Management, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of August, 2021, a copy of the foregoing was served on all counsel of record via the Court's CM/ECF service. A copy was also emailed to the following:

Thomas R. King
King & Burke, P.C.
7390 South Creek Road, Suite 104
Sandy, Utah 84093
trking@3kingslaw.com

Lisa Weddle
Jordan McCrary
Morgan Lewis & Bockius LLP
300 S. Grand Ave. 22nd Floor
Los Angeles, CA 90071
Lisa.Weddle@morganlewis.com
Jordan.Mccrary@morganlewis.com

Brian S. King
Brian S. King, P.C.
420 E. South Temple, Suite 420
Salt Lake City, Utah 84111

/s/ Doris Van den Akker